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OCT 23 2008

FCC Mail Room

dhaldane

From: "dhaldane" <dhaldane@shentel.net>
 To: <ecfs@fcc.gov>
 Sent: Wednesday, October 15, 2008 3:07 PM
 Subject: Comment on Federal Register DA 08-1913; WT Docket No. 08-165 - Petition by CITC for Declaratory Ruling (Preemption)

<PROCEEDING> 08-165
 <DATE> 7/11/08 date of document; 10/15/08 date of comment
 <NAME> Donna G. Haldane
 <ADDRESS1> 4690 S. Middle Road
 <ADDRESS2>
 <CITY> Mount Jackson
 <STATE> VA
 <ZIP> 22842
 <LAW-FIRM>
 <ATTORNEY>
 <FILE-NUMBER>
 <DOCUMENT-TYPE> CO
 <PHONE-NUMBER> 540-477-3607
 <DESCRIPTION> Email Comment
 <CONTACT-EMAIL> dhaldane@shentel.net
 <TEXT>

*rejected
for extra
words
in this line*

Re: Comment on Federal Register DA 08-1913; WT Docket No. 08-165

To Whom It May Concern:

This letter serves to respond to CTIA's petition to clarify provisions of Section 332(c)(7) and preempt local ordinances and state laws considered in violation of Section 253(a) of the Telecommunications Act of 1996.

As a private citizen, I **recommend against approval** of the petition for the reasons set out below:

The CTIA is petitioning to impose four restrictions on local governments. Below I offer comment on three:

First, imposition of a 45-75 day limit on the application process of communications towers. Experience demonstrates that the proposed deadlines would be likely to unduly rush approval at the expense of citizen input and have the effect of pushing the county into premature, rushed, short-term decisions (75 days) with long-term impacts (25-30 years). Applications have been submitted incomplete and not in conformity to the existing County zoning code/ordinance that governs the application content. An arbitrary standard would provide incentive for incomplete applications by threat of legal dispute over the "starting date" of decisions. The established process includes timely public notification, public hearing, Planning Department review/recommendations and final determination by the Board of Supervisors. Because notification requirements are exceptionally weak, (see comment below) citizens are often slow to even become aware of a proposed tower in their neighborhood. Imposition of an arbitrary deadline in lieu of the existing "reasonable" timeframe established in the 1996 act would erode citizen input and further encourage the practice of timing applications in a manner so as to occur when the affected citizenry is already distracted with local or national events, or during summer months when the meeting schedules of a small county are often modified to accommodate local fairs and vacations.

Second, failure to meet the arbitrary deadline would result in automatic approval. This would potentially result in no citizen input at all. It would further provide incentive for litigation over deadlines (not substance) by a deep-pocketed private industry on the one hand and small towns and counties reliant on local tax revenues from farmers, tradesmen,

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small businesses and other middle income families, on the other. That, in turn, would likely have the effect of intimidating local governments into approving applications without proper review, to avoid possible litigation and its consequent costs.

Third, CTIA is petitioning to clarify that a zoning decision violates the section 332(c)(7)(B)(i) if it prohibits the applicant from providing wireless service "in a given area". This "clarification" actually introduces far greater ambiguity by the use of the term "in a given area", with no definition of what that means. Coverage maps of many counties show a very large number of tiny pockets of dead zones, particularly in hilly or rolling terrain. The requested "clarification" has the potential impact of barring and setting aside every denial of a wireless tower application. It invites litigation over what constitutes "a given area" and a valid denial. Further, it provides incentive for the one thing most citizens do not want - overly tall towers which provide superior coverage of an area, but are the most destructive of property values in the viewshed of the tower. Most local governments seek a reasonable balance between the two and require time for thoughtful decisionmaking and citizen input.

One final observation: The weak notification requirements under the 1996 act should be addressed in a separate Petition with a requirement for any wireless tower applicant to provide written notification of every property owner within 1.5 miles of any proposed tower that is not mounted upon an already existing structure, and to publish notification in at least three newspapers circulated in the affected area (if that many exist). This would resolve some of the public input issues that have arisen in this and other counties and which, in turn, can delay decisions on applications so that citizen's voices might be heard.

MS Word Document
using "VISTA"
rejected for
incompatible format

The Federal Communications Commission
445 12th Street S.W.
Washington D.C. 20554

Re: Comment on Federal Register DA 08-1913; WT Docket No. (Proceeding) 08-165

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Donna G. Haldane
4690 S. Middle Road
Mt. Jackson, VA 22842

Received & Inspected
OCT 23 2008
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October 16, 2008

The FCC
445 12th ST. S.W.
Washington D.C.
20554

Motion to Accept the Filing
as Timely Filed

Sir/Madam

The enclosed comment was submitted Wed. Oct 15th 2008 but rejected by your system for a "system error" in dateline. It was resubmitted Thursday Oct. 16th as a "MS Word" document but your electronic system would not accept the document, for unknown reasons.

I am therefore submitting by hard copy with a request to please accept the comment as "timely filed".



Donna G. Haldane
4690 S. Middle Road
Mt. Jackson, VA 22842